

Submission of Title VI Implementation Plans

June 30, 2000



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
State Capitol
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John G. Morgan
Comptroller

January 11, 2001

The Honorable John S. Wilder
Speaker of the Senate
The Honorable Jimmy Naifeh
Speaker of the House of Representatives
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the report on the submission of Title VI implementation plans. This review was conducted pursuant to the requirements of Section 4-21-901, *Tennessee Code Annotated*.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/llw

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June 30, 2000

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INTRODUCTION

AUTHORITY

Chapter 502 of the Public Acts of 1993 (Section 4-21-901, *Tennessee Code Annotated*) requires those state agencies subject to the requirements of Title VI of the Civil Rights Act of 1964 to develop a Title VI implementation plan. These plans were to be submitted to the Department of Audit by June 30, 1994, and are to be submitted each June 30 thereafter.

Section 4-21-901 further requires the Department of Audit to publish, at least once a year, a cumulative report of its findings and recommendations concerning compliance with the statute's requirements. Pursuant to that directive, this report will identify the plans submitted to the Department of Audit.

OBJECTIVES OF THE REVIEW

The objectives of the review were to summarize the purpose and scope of Title VI and to detail agencies' compliance with the reporting requirements in *Tennessee Code Annotated*, Section 4-21-901.

SCOPE AND METHODOLOGY OF THE REVIEW

The Title VI plans submitted to the Department of Audit are the result of a self-reporting process in which each agency drafts its own plan. The Division of State Audit's review of the agencies' plans was limited to whether the plans had been submitted.

Accordingly, we do not attempt to express an opinion on the implementation of the provisions in the plans. Rather, this review will be limited to determining if Title VI implementation plan documents were submitted.

PURPOSE AND SCOPE OF TITLE VI

Title VI of the Civil Rights Act of 1964, as codified in 42 USC. 2000d, states:

No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the

benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

Title VI is intended to prohibit discrimination on the basis of race, color, or national origin in federally assisted programs even if federal money makes up only a portion of the program's budget. The emphasis of Title VI is on services provided by a government agency to the citizens of a given area. If federal money is used to provide services, Title VI applies, and services must be delivered in a nondiscriminatory manner.

A recipient of federal assistance violates Title VI when it

- denies an individual service, aid, or benefits because of race, color, or national origin;
- provides only inferior or discriminatory service, aid, or benefits because of any individual's race, color, or national origin;
- subjects an individual to segregation or different treatment in relation to aid, services, or benefits because of race, color, or national origin;
- restricts or discourages individuals in their enjoyment of facilities because of race, color, or national origin;
- treats an individual differently because of race, color, or national origin in regard to eligibility for programs or services;
- uses criteria which would impair accomplishment of the Act's objectives or which would subject individuals to discrimination because of race, color, or national origin;
- discriminates against an individual in any program or activity that is conducted in a facility constructed even partly with federal funds; or
- subjects an individual to discriminatory employment practices under any federal program intended to provide employment.

TITLE VI PLAN GUIDELINES

The Human Rights Commission has issued guidelines for the development of Title VI implementation plans. By following these guidelines, agencies can ensure that their plan documents are comprehensive and complete.

OBSERVATIONS AND COMMENTS

In general, most agencies have taken the steps necessary to prepare vigorous Title VI implementation plans. See Conclusions for the status of submission of implementation plans for fiscal years 1995 through fiscal year 2000.

As reported in *Tennessee State Agencies and Title VI of the Civil Rights Act of 1964*, issued in 1994 by the Comptroller's Office of Local Government, many state agencies receiving federal funding were generally unaware of or had little knowledge of their responsibilities under Title VI. This situation arose, in part, because the federal entity responsible for coordinating implementation of Title VI—the U.S. Department of Justice—placed little emphasis on and provided no guidance on Title VI compliance.

Because most state agencies knew little about Title VI compliance issues, many referred to existing plans and examples for guidance when drafting their 1994-95 plans. The examples, however, lacked several elements necessary for compliance with U.S. Department of Justice guidelines. Governor Ned McWherter assigned the responsibility of monitoring Title VI compliance to the State Planning Office on March 1, 1994. As the State Planning Office received the implementation plans, staff reviewed the plans and compared them to the guidelines. State Planning then sent comments on weaknesses noted and requested revised plans. As a result, several agencies submitted revised plans that satisfied the necessary Title VI requirements. On June 12, 1995, the State Planning Office was repealed by Chapter 501, Public Acts of 1995. The Human Rights Commission has taken on the role of monitoring the plans. On October 15, 1998, the Commissioner of Finance and Administration notified all cabinet officers and agency heads that the Human Rights Commission is the coordinating state agency for the monitoring and enforcement of Title VI. On June 12, 2000, the State Attorney General issued Opinion No. 00-107, regarding the statutory authority of the Human Rights Commission regarding Title VI, and opined that the Commission did not have authority to monitor or enforce Title VI. Instead, the Commission has statutory authority to enforce Tennessee's version of Title VI found in Section 4-21-904-905, *Tennessee Code Annotated*.

FILING TITLE VI COMPLAINTS OF DISCRIMINATORY PRACTICES

Tennessee Code Annotated, Section 4-21-905, specifies the procedures for filing a complaint concerning discriminatory practices. Any person claiming to be aggrieved by a discriminatory practice under this part has 180 days to file a complaint with the state agency receiving federal funds. An aggrieved person may also file a complaint with the Human Rights Commission, as provided in *Tennessee Code Annotated*, Section 4-21-302. Complaints filed with state agencies are subject to review by the Human Rights Commission for applicability under Title VI of the Civil Rights Act of 1964.

During fiscal year 1999-2000, five state agencies received Title VI complaints. Except for the complaints filed by inmates against the Department of Correction, we reviewed the current status of these complaints.

The Department of Transportation (DOT) received two complaints, one concerning sexual discrimination and the other involving race. A complaint was filed by a female who alleges sex discrimination in the award process of contracts. The investigation by DOT is ongoing.

The second complaint was by a male who alleged race discrimination in the condemnation of property. DOT investigated and found that he did not own any property so he cannot file a complaint. The case was closed and no Title VI violations were found.

The Department of Human Services (DHS) received four Title VI complaints: two concerning national origin, one concerning color, and one involving race. A complaint was filed against Davidson County DHS by a male who alleged that he had been denied full food stamp benefits because of his nationality. He felt that if a translator had been provided, his request for food stamp assistance would have been understood clearly. The local county and state DHS Title VI coordinators' investigation found that the employees had incorrectly determined the complainant's eligibility. The complainant received supplemental benefits.

The second complaint was also against Davidson County DHS. A male alleged he was treated rudely by DHS personnel and deprived of his rights while seeking food stamps and cash benefits. He also questioned being required to provide verification of citizenship during multiple visits as well as student enrollment verification. State and local DHS Title VI coordinators investigated and found that the adjustments to his benefits were properly based on income information supplied from his employer and resulted in a notice of decrease in benefits. The correct income information was submitted to DHS and an appropriate adjustment in food stamp benefits was reflected. The request for student enrollment verification was necessary to assess eligibility for benefits.

The third complaint was against the Tennessee Vocational Training Center (TVTC) in Clarksville—a division of DHS. An African-American female alleged that, when she submitted job applications and was not successful in obtaining a job, the Placement Counselor got “upset” and “is very hard on me because I am Black.” The investigation by state and local DHS found no Title VI violations.

The fourth complaint was against the Upper Cumberland Human Resource Agency (UCHRA) in Sparta, Tennessee. A female alleged racial discrimination by UCHRA in the administration of its Low Income Home Energy Assistance Program. She believed that she was denied cooling and heating funds because of her African-American heritage because she was told that White County would not receive any. The investigation found that at the time the complainant inquired about the availability of Summer Cooling funds, UCHRA did not anticipate allocating funds for cooling assistance.

The Department of Mental Health and Mental Retardation received one Title VI complaint in which a male patient claimed that his privileges were taken away because he is African-American. The agency's Title VI coordinator investigated and found the allegations to be unsubstantiated.

The Board of Probation and Parole received one Title VI complaint in which a female worker alleged sexual, racial, and age discrimination. She claimed that the assistant commissioner interviewed her staff and had her reassign some of them. The EEOC is investigating and the complaint is still pending.

The University of Tennessee received two Title VI complaints. The first involved an Asian male student who alleged that he did not pass his comprehensives (for the second time) due to his national origin and age. The case was investigated, with the preliminary finding that no discrimination had occurred. The student worked out an agreement with the department to re-take his comprehensives. The student again failed his comprehensives and sent a letter of appeal to the President, which is being reviewed by the General Counsel.

The second complaint was from an Asian male alleging he was subjected to negative terms and conditions. The investigation found no discrimination.

CONCLUSIONS

TITLE VI IMPLEMENTATION PLANS

As of December 29, 2000, all state agencies that are required to submit a Title VI Implementation Plan for fiscal year 2001 had done so. Appendix A presents the status of Title VI implementation plans submitted for fiscal years 1995 through 2001.

TITLE VI COMPLAINTS

See Appendix B for the number of complaints filed with state agencies during fiscal years 1995 through 2000.

SUMMARY

The true measure of successful compliance will not hinge so much on whether plans have been prepared and submitted but rather on whether the provisions contained in the plans are actually carried out. Currently, the Human Rights Commission does not have the statutory authority to review, monitor, and enforce Title VI compliance.

In addition to the commission's investigation of complaints, the Division of State Audit's financial and compliance audit reports of agencies subject to the requirements of Title VI of the Civil Rights Act of 1964 will include material violations of Title VI requirements noted during the audit. The audits for fiscal years ending June 30, 1994, through June 30, 2000, contain no findings addressing violations of Title VI.

Appendix A

**Status of Title VI Implementation Plans
As of December 29, 2000**

<u>State Entity</u>	<u>FY 95 Plan Submitted</u>	<u>FY 96 Plan Submitted</u>	<u>FY 97 Plan Submitted</u>	<u>FY 98 Plan Submitted</u>	<u>FY 99 Plan Submitted</u>	<u>FY 00 Plan Submitted</u>	<u>FY 01 Plan Submitted</u>
Commission on Aging	06/30/94 Revised 09/16/94	06/30/95	06/28/96	07/01/97	07/01/98	06/30/99	07/03/00
Department of Agriculture	06/30/94 Revised 11/7/94	06/30/95 letter stated prior plan remained in effect	06/27/96 letter stated plan being revised	07/10/97	07/21/98	06/30/99	07/03/00
Alcoholic Beverage Commission	10/25/94	06/29/95	07/11/96	07/03/97	07/29/98	07/08/99	06/30/00
Arts Commission	07/29/94 Revised 11/10/94	06/30/95	07/08/96	06/24/97	06/30/98	06/30/99	06/30/00
Commission on Children and Youth	06/30/94 Revised 09/30/94	06/30/95	06/28/96	06/30/97	06/30/98	06/29/99	07/18/00
Department of Children's Services ¹	08/01/94	06/28/95	06/28/96	06/30/97	07/08/98	06/30/99	06/29/00
Department of Commerce and Insurance	NA	NA	NA	NA	06/29/98	06/24/99	06/29/00
Department of Correction	08/17/94 Revised 11/18/94	06/30/95 Revised 08/21/95	06/28/96	06/27/97	06/30/98	06/30/99	06/29/00

¹ FY 95 and FY 96 plans were submitted by the Department of Youth Development.

**Status of Title VI Implementation Plans
As of December 29, 2000 (Cont.)**

<u>State Entity</u>	<u>FY 95 Plan Submitted</u>	<u>FY 96 Plan Submitted</u>	<u>FY 97 Plan Submitted</u>	<u>FY 98 Plan Submitted</u>	<u>FY 99 Plan Submitted</u>	<u>FY 00 Plan Submitted</u>	<u>FY 01 Plan Submitted</u>
Administrative Office of the Courts	Entity indicated report pending per letter dated 12/15/94	08/23/95	04/04/97	07/09/97	06/30/98	06/29/99	06/30/00
District Attorneys General Conference	Entity indicated report pending per letter dated 12/21/94	07/06/95	06/28/96	07/25/97	06/30/98	02/23/00	06/30/00
District Public Defenders Conference	12/08/94	06/08/95	07/03/96	06/30/97	07/01/98	07/02/99	06/29/00
Department of Economic and Community Development	08/17/94	06/26/95	10/04/96	06/30/97	06/30/98 Revised 09/30/98	06/30/99	06/29/00
Department of Education	07/12/94 Revised 11/02/94	06/30/95	06/28/96	06/30/97	06/30/98	06/29/99	06/30/00
Department of Employment Security	07/14/94	06/30/95	06/27/96	05/01/97	06/30/98	06/30/99	Merged with Department of Labor
Department of Environment and Conservation	12/21/94	06/30/95	06/28/96	07/01/97	06/30/98	06/30/99	06/30/00
Department of Finance and Administration	07/01/94 Revised 09/12/94	07/31/95	07/01/96	06/30/97	07/02/98	06/30/99	06/30/00

**Status of Title VI Implementation Plans
As of December 29, 2000 (Cont.)**

<u>State Entity</u>	<u>FY 95 Plan Submitted</u>	<u>FY 96 Plan Submitted</u>	<u>FY 97 Plan Submitted</u>	<u>FY 98 Plan Submitted</u>	<u>FY 99 Plan Submitted</u>	<u>FY 00 Plan Submitted</u>	<u>FY 01 Plan Submitted</u>
Department of General Services	08/16/94 Revised 09/09/94 and 11/4/94	06/30/95 letter stated prior plan remained in effect	06/28/96	06/30/97	06/30/98	06/29/99	06/30/00
Department of Health	08/05/94 Revised 11/28/94	06/16/95	07/03/96	07/01/97	06/30/98	06/30/99	06/29/00
Human Rights Commission	12/08/94	08/04/95	10/14/96	12/15/97	07/01/98	06/30/99	06/29/00
Department of Human Services	08/10/94	07/07/95 Revisions to follow	06/13/96	06/30/97	06/30/98	06/30/99	06/28/00
Council of Juvenile and Family Court Judges	06/30/94	06/30/95 ²	07/03/96	06/30/97 ²	06/30/98 ²	06/29/99 ²	07/18/00 ²
Department of Labor and Workforce Development	07/05/94	06/29/95	09/06/96	07/01/97	08/07/98	06/30/99	06/20/00
Department of Mental Health and Mental Retardation	Entity indicated report pending per letter dated 06/30/94	07/5/94	06/28/95	07/03/96	07/01/97 Revised 1/29/98	06/30/98	06/30/99
Military Department	06/29/94 Revised 10/20/94	06/30/95 letter stated prior plan remained in effect	06/27/96	06/30/97 letter stated prior plan remained in effect	07/01/98	06/30/99	06/30/00

² Covered by Commission on Children and Youth plan.

**Status of Title VI Implementation Plans
As of December 29, 2000 (Cont.)**

<u>State Entity</u>	<u>FY 95 Plan Submitted</u>	<u>FY 96 Plan Submitted</u>	<u>FY 97 Plan Submitted</u>	<u>FY 98 Plan Submitted</u>	<u>FY 99 Plan Submitted</u>	<u>FY 00 Plan Submitted</u>	<u>FY 01 Plan Submitted</u>
Board of Probation and Parole	NA ³	NA ³	NA ³	NA ³	NA ³	NA ³	06/30/00 Revised 08/18/00
Department of Revenue	Entity indicated report pending per letter dated 12/21/94	06/30/95	07/05/96	06/30/97	07/01/98	06/30/99	06/30/00
Department of Safety	06/30/94	06/30/95	06/28/96	06/26/97	12/01/98	06/28/99	06/29/00
Department of State	07/01/94 Revised 09/13/94	06/30/95	06/28/96	06/30/97	06/30/98	06/30/99	06/30/00
Tennessee Board of Regents	06/30/94 Revised 09/15/94 and 11/04/94	07/14/95 letter stated prior plan remained in effect	05/02/96	06/30/97	09/30/98	06/30/99	06/30/00
Tennessee Bureau of Investigation	11/28/94	06/30/95 Revised 12/20/95	07/05/96	06/30/97	06/30/98	06/24/99	06/08/00
Tennessee Higher Education Commission	11/21/94	06/30/95	07/01/96	06/24/97	07/14/98	07/01/99	06/30/00
Tennessee Housing Development Agency	06/30/94	06/29/95 letter stated prior plan remained in effect	07/01/96	06/30/97	07/08/98	07/01/99	06/29/00
Tennessee Regulatory Authority ⁴	07/01/94	06/30/95	07/24/96	07/02/97	06/30/98	06/29/99	06/30/00

³ As Board of Paroles, reported no federal funds.

⁴ FY 95 and FY96 plans were submitted by the Public Service Commission.

**Status of Title VI Implementation Plans
As of December 29, 2000 (Cont.)**

<u>State Entity</u>	<u>FY 95 Plan Submitted</u>	<u>FY 96 Plan Submitted</u>	<u>FY 97 Plan Submitted</u>	<u>FY 98 Plan Submitted</u>	<u>FY 99 Plan Submitted</u>	<u>FY 00 Plan Submitted</u>	<u>FY 01 Plan Submitted</u>
Tennessee Student Assistance Corporation	06/30/94	07/28/95 letter updating prior plan	07/03/96	07/09/97	07/17/98	07/01/99	06/30/00
Tennessee Wildlife Resources Agency	06/30/94	06/30/95	07/02/96	07/10/97	11/24/98	06/30/99	06/29/00
Department of Transportation	08/15/94	07/10/95 letter stated prior plan remained in effect	05/31/96	06/30/97	06/30/98	06/30/99	06/30/00 Revised 07/10/00
Department of the Treasury	08/17/94 Revised 11/03/94	06/30/95 letter stated prior plan remained in effect Revised 08/17/95	08/23/96	01/06/97	11/17/98	07/01/99	06/30/00 Revised 08/29/00
University of Tennessee	12/15/94	06/19/95	08/08/96	06/09/97	06/19/98	06/14/99	06/14/00 Revised 7/24/00
Department of Veterans' Affairs	06/30/94 Revised 09/14/94	06/30/95	06/24/96	06/30/97	06/30/98	06/22/99	06/29/00

The following agencies have reported that they have no federal funds and, therefore, are not subject to Title VI requirements:

Office of the Attorney General and Reporter	Health Facilities Commission	Tennessee Advisory Commission on Intergovernmental Relations
Office of the Comptroller of the Treasury	Office of Legislative Administration	Tennessee Corrections Institute
Department of Financial Institutions	Obion-Forked Deer Basin Authority	Department of Tourist Development
Fiscal Review Committee	Department of Personnel	Executive Department

Appendix B

Title VI Complaints Reported

<u>Entity</u>	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>
Commission on Aging	-	-	-	-	-	-
Department of Agriculture	-	-	-	-	-	-
Alcoholic Beverage Commission	-	-	-	-	-	-
Arts Commission	-	-	-	-	-	-
Commission on Children and Youth	-	-	-	-	-	-
Department of Children's Services	-	-	-	-	1	-
Department of Commerce and Insurance	-	-	-	-	-	-
Department of Correction	-	-	199 ¹	198 ¹	260 ¹	236 ¹
Administrative Office of the Courts	-	-	-	-	-	-
District Attorneys General Conference	-	-	-	-	-	-
District Public Defenders Conference	-	-	-	-	-	-
Department of Economic and Community Development	-	-	-	-	1	-
Department of Education	2	2	2	1	1	-
Department of Employment Security	-	-	-	-	-	-
Department of Environment and Conservation	-	-	-	1	-	-
Executive Department	-	-	-	-	-	-
Department of Finance and Administration	-	-	-	-	-	-
Department of General Services	-	1	-	-	-	-
Department of Health	-	-	-	-	5	-
Human Rights Commission	-	-	-	-	-	-
Department of Human Services	-	-	-	1	3	4
Council of Juvenile and Family Court Judges	-	-	-	-	-	-
Department of Labor	-	-	-	-	-	-
Department of Mental Health and Mental Retardation	-	-	-	-	1	1
Military Department	-	-	-	-	-	-
Board of Probation and Parole	-	-	-	-	-	1
Department of Revenue	-	-	-	-	-	-
Department of Safety	-	-	-	-	-	-
Department of State	-	-	-	-	-	-
Tennessee Board of Regents	3	-	-	3	-	-
Tennessee Bureau of Investigation	-	-	-	-	-	-
Tennessee Higher Education Commission	-	-	-	-	-	-
Tennessee Housing Development Agency	-	-	-	-	-	-
Tennessee Regulatory Authority	-	-	-	-	-	-
Tennessee Student Assistance Corporation	-	-	-	-	-	-
Tennessee Wildlife Resources Agency	-	-	-	-	-	-
Department of Transportation	-	-	-	2	1	2
Department of the Treasury	-	-	-	-	-	-
University of Tennessee	-	-	-	3	1	2
Department of Veterans' Affairs	-	-	-	-	-	-

¹ Complaints filed by inmates.